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PATENT
Docket No. 134.01910101
(P-10909.00)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): BENZ et al.) Group Art Unit: 1711
Serial No.: 10/663,926)
Confirmation No.: 2299) Examiner: Rabon A. Sergent
Filed: September 16, 2003)
For: COMPOUNDS CONTAINING QUATERNARY CARBONS AND SILICON-
CONTAINING GROUPS, MEDICAL DEVICES, AND METHODS

SUPPLEMENTAL RESPONSE TO RESTRICTION REQUIREMENT

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In response to the Office communication mailed March 1, 2006, Applicants' Representative, Ann Mueting, contacted Examiner Rabon A. Sergent. Examiner Sergent explained that the U.S. Patent and Trademark Office staff person processing Applicants' Supplemental Response to Restriction Requirement dated February 24, 2006 erroneously sent the Notice of Non-Compliant Amendment, since no Amendment was filed. Examiner Sergent said to resubmit the response. He also indicated that he wanted further clarification of which claims were readable on the elected species.

In response to the Restriction Requirement mailed September 28, 2005 and the Office communications mailed January 25, 2006 and March 1, 2006, Applicants elect, with traverse, Group II (claims 1-70 and 76), directed to a polymer or a medical device including a polymer.

Response to Restriction Requirement and Species Election

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In addition, with respect to the species election, Applicants elect, with traverse, polymers wherein: n=1, m=1, R, R¹, R², R³, R⁴, R⁵ (if present as recited in claim 17) = saturated aliphatic group, V=R¹, and Y=OH (if present as recited in claim 17). It is respectfully noted that claims 1-16 and 40-56 are silent with respect to the presence of R⁵ and Y. Also, all claims except claim 38 are readable on the embodiments encompassed by these specified variables. The Examiner suggested that claims such as claims 36 and 37 would not read on the elected species; however Applicants' Representative disagrees. Although claims 36 and 37 further define R⁴, they do not exclude Y=OH.

Applicants respectfully request reconsideration and withdrawal or modification of the restriction requirement. It is respectfully submitted that the inventions as claimed can be readily evaluated in one search without placing undue burden on the Examiner. That is, all the claims are so interrelated that a search of one group of claims will reveal art to the others.

Furthermore, with respect to the species election, this election is with traverse to the extent that it is understood that (a) the requirement will be withdrawn upon the finding of an allowable genus; and (b) any species withdrawn from consideration will be transferred to the elected subject matter unless it is found patentably distinct from the elected or allowed claims. Applicants traverse on the grounds that the generic claim includes sufficiently few species that a search and examination of all the species at one time would not impose a serious burden on the Examiner.

Applicants reserve the right to pursue examination of any non-elected claims in continuation or divisional applications.

Response to Restriction Requirement and Species Election

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The Examiner is invited to contact Applicants' Representatives, at the telephone number listed below if there are any questions regarding this Response or if prosecution of this application may be assisted thereby.

CERTIFICATE UNDER 37 C.F.R. 1.8:

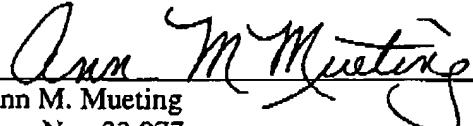
The undersigned hereby certifies that this paper is being transmitted by facsimile in accordance with 37 CFR §1.6(d) to the Patent and Trademark Office, addressed to Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 23rd day of March, 2006, at 2:30 pm (Central Time).



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March 23, 2006
Date

Respectfully submitted
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